Regulatory Impact Review

1 Introduction

The NOAA Fisheries Service requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and, (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the proposed regulations are a "significant regulatory action" under the criteria provided in Executive Order (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the expected impacts that this action would be expected to have on the commercial and recreational snapper grouper fisheries. Additional details on the expected economic effects of the various alternatives in this action are included in **Section 4.0**.

2 Problems and Objectives

The purpose and need, issues, problems, and objectives of the proposed amendment are presented in **Section 1.2**. In summary, the purpose of this amendment is to modify management of octocorals through the establishment of an annual catch limit (ACL); modify management of the South Carolina Special Management Zones (SMZs); revise sea turtle release gear requirements for the snapper grouper fishery; and designate new essential fish habitat (EFH) and EFH-habitat areas of particular concern (EFH-HAPCs) in the South Atlantic. These actions are needed to remain in compliance with the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and to respond to concern from fishermen.

3 Methodology and Framework for Analysis

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. To the extent practicable, the net effects of the proposed measures are stated in terms of producer and consumer surplus, changes in profits, employment in the direct and support industries, and participation by charter boat fishermen and private anglers. In addition, the public and private costs associated with the process of developing and enforcing regulations on fishing for species in the waters of the U.S. South Atlantic are provided.

4 Description of the Fishery

Descriptions of the South Atlantic and Gulf of Mexico octocoral fishery and the South Carolina Special Management Zones are contained in **Section 3.6**.

a. Impacts of Management Measures

Details on the economic impacts of all alternatives are included in **Section 4**. The following discussion includes only the expected impacts of the preferred alternatives.

i. Remove octocorals from the Fishery Management Unit (FMU) under the South Atlantic Coral FMP

Under **Preferred Alternative 3**, octocorals will be removed from the South Atlantic FMP and would therefore not be protected in Federal waters off of Florida while harvest of octocorals in waters off of the other South Atlantic states would remain within the South Atlantic FMP. If the State of Florida extends their jurisdiction to cover both state and federal waters, as they are expected to do, no short or long-term changes would be expected with regard to economic effects resulting from this action since Florida would take over management of these areas. Management measures would be expected to be equivalent to or exceed current management measures in place.

ii. Extend the SAFMC's Fishery Management Unit for octocorals into the Gulf of Mexico Fishery Management Council's area of jurisdiction

Given the **Preferred Alternative 3** under **Action 1** to shorten the management unit to encompass North Carolina, South Carolina, and Georgia federal waters only, **Alternative 1 (Preferred)** under this action has been chosen as preferred, which allows Florida to manage Atlantic and Gulf federal waters off of Florida. It is presumed that Florida will extend their management jurisdiction to include federal waters off of Florida and that the management measures implemented by Florida would presumably mirror those already in place or improve upon them. Extension of the FMU (**Alternative 2**) for octocorals into the GMFMC's jurisdiction is largely an administrative action and there are no direct economic effects. There are no expected changes to long-term economic effects as a result of **Alternative 2** compared to **Preferred Alternative 1** since both protect octocorals to the same degree. As stated above, **Preferred Alternative 1** and **Alternative 2** refer only to who manages the fishery and would not change the quota or the management mechanism currently in place.

iii. Modify the Annual Catch Limit (ACL) for octocorals in the South Atlantic

Because there are no landings of octocorals occurring in federal waters north of Florida, and harvest of octocorals are prohibited north of Cape Canaveral, FL, the **Preferred Alternative 3** (ACL = 0) is not expected to result in any negative economic effects. In addition, the only areas left to manage after **Actions 1 and 2** occur would be the federal waters off of Georgia, South Carolina, and North Carolina where octocorals do not inhabit.

iv. **Modify management of South Carolina Special Management Zones (SMZs)**

Commercial landings of species caught on the artificial reef sites referred to in **Preferred Alternatives 2 and 3** are not able to be quantified due to the way that logbook landings are recorded. The level of detail of reporting where fish are caught is insufficient to allow for harvest on the SMZs to be broken out from harvest made in the fishing zones the SMZs lie in, which are 60 nautical miles square. Therefore, the loss associated with a ban on harvest above the recreational bag limit by commercial fishermen is not able to be quantified. Both **Preferred Alternative 2** and **Preferred Alternative 3** would be expected to result in reductions in ex-vessel revenues to commercial fishermen, though some mitigation of these reductions could occur as a result of fishing in other areas. At the same time, **Preferred Alternative 2** and **Preferred Alternative 3** would be expected to result in increased economic benefits to recreational fishermen as a result of allocation of the harvest that would otherwise be taken by commercial fishermen. Additional economic benefits would be expected to result in healthier and more sustainable populations at these sites.

v. **Modify Sea Turtle Release Gear Requirements for the Snapper Grouper Fishery**

Out-of-pocket release gear expenses per *new entrant* for **Preferred Alternatives 4a and 4b** are estimated to range from $324-$490 for vessels with less than 4 feet freeboard and from $564-$987 for vessels with more than 4 feet freeboard. There are no release gear expenses for those already participating in the fishery since all of the gear required under **Preferred Alternatives 4a and 4b** is already required under **Alternative 1 (No Action)**. However, under **Preferred Alternatives 4a and 4b**, vessels will be required to carry less gear. This will free up more space onboard the vessels. If there were costs to be estimated, this could not be done because there is no information collected on how many vessels have more or less than or more than 4 feet freeboard in the South Atlantic.

vi. Amend the Snapper Grouper FMP to Designate New EFH-HAPCs

Designation of additional EFH-HAPCs is expected to increase the likelihood that long-term resource goals are met due to increased protection through consultation requirements. A healthy, sustainable resource is presumed to result in increased long-term economic benefits relative to less protection. Assuming the areas are appropriate to the resource, both **Preferred Alternatives 2 and 3** would be expected to result in greater protection of the resource than **Alternative 1 (No Action)** and provide for increased long-term economic benefits.

vii. Amend the Coral, Coral Reefs and Live/Hardbottom Habitat Fishery Management Plan (Coral FMP) to designate new Essential Fish Habitat-Habitat Areas of Particular Concern (EFH-HAPCs)

Designation of additional EFH-HAPCs is expected to increase the likelihood that long-term resource goals are met due to increased protection through consultation requirements. A healthy,

sustainable resource is presumed to result in increased long-term economic benefits relative to less protection. Assuming the area is appropriate to the resource, **Preferred Alternative 2** would be expected to result in greater protection of the resource than **Alternative 1 (No Action)** and provide for increased long-term economic benefits over **Alternative 1 (No Action)**.

viii. Amend the Fishery Management Plan (FMP) for Pelagic Sargassum Habitat to designate new EFH

Designation of EFH is expected to increase the likelihood that long-term resource goals are met due to increased protection through consultation requirements. A healthy, sustainable resource is presumed to result in increased long-term economic benefits relative to less protection. Assuming the area is appropriate to the resource, **Preferred Alternative 3** would be expected to result in greater protection of the resource than **Alternative 1 (No Action)** and **Alternative 2** and is expected to increase long-term economic benefits compared **Alternative 1 (No Action)** and **Alternative 2**.

ix. Amend the Fishery Management Plan (FMP) for Pelagic Sargassum Habitat to designate EFH-HAPCs

Designation of EFH-HAPC is expected to increase the likelihood that long-term resource goals are met due to increased protection through consultation requirements. A healthy, sustainable resource is presumed to result in increased long-term economic benefits relative to less protection. **Preferred Alternative 1** is not expected to decrease long-term economic effects compared to **Alternatives 2a and 2b** since it is unclear if these designations are appropriate EFH-HAPC for pelagic *Sargassum*.

5 Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any Federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Council costs of document preparation,
meetings, public hearings, and information
dissemination……...…….. $200,000

NOAA Fisheries administrative costs of document
preparation, meetings and review $200,000

Annual law enforcement costs .....unknown

TOTAL $400,000

Law enforcement currently monitors regulatory compliance in these fisheries under routine operations and does not allocate specific budgetary outlays to these fisheries, nor are increased enforcement budgets expected to be requested to address components of this action. In practice, some enhanced enforcement activity might initially occur while the fishery becomes familiar with the new regulations. However, the costs of such enhancements cannot be forecast. Thus, no specific law enforcement costs can be identified.

a. Summary of Economic Impacts

Under **Action 1, Preferred Alternative 3**, if the State of Florida extends their jurisdiction to cover both state and federal waters, no short or long-term changes would be expected with regard to economic effects from this action since Florida would take over management of these areas. Under Action 2, **Preferred Alternative 1**, there are no expected changes to long-term economic effects compared to the other alternative since both protect octocorals to the same degree. Because there are no landings of octocorals occurring in federal waters north of Cape Canaveral (harvest is also prohibited, the **Preferred Alternative 3 under Action 3** is not expected to result in any negative economic effects. With regard to modifying management of South Carolina Special Management Zones (**Action 4**), **Preferred Alternatives 2 and 3** would be expected to increase economic benefits to recreational fishermen as a result in an indirect shift in allocation between commercial and recreational fishermen. Both preferred alternatives are expected to result in decreases in ex-vessel revenues for commercial fishermen, although some mitigation could occur as a result of fishing in other areas. Consideration of modifications to sea turtle release gear requirements (**Action 5**) **Preferred Alternatives 4a and 4b** are expected to benefit fishermen because they will be required to carry less gear on their vessels. This will free up more space onboard. Amending the Snapper Grouper FMP to designate new EFH-HAPCs (**Action 6**) **Preferred Alternatives 2 and 3** would be expected to result in greater protection of the resource and provide for increased long-term benefits. Amending the Coral FMP to designate new EFH-HAPCs (**Action 7**) **Preferred Alternative 2** would be expected to result in increase protection of the resource and provide for long-term economic benefits. Amending the FMP for Pelagic Sargassum to designate new EFH (**Action 8**) **Preferred Alternative 3** is expected to increase long-term economic benefits given greater protection of the resource. Amending the FMP for Pelagic Sargassum Habitat to designate EFH-HAPCs (**Action 9**) **Preferred Alternative 1** is not expected to decrease long-term economic effects compared to the other alternatives since it is unclear if these designations are appropriate EFH-HAPCs for pelagic Sargassum.

b. Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is expected to result in: (1) an annual effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2)

create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this executive order. Based on the information provided above, this regulatory action was determined to not be economically significant for the purposes of E.O. 12866.